IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WP No. 21434 of 2006

Between :

Gullapalli Radhika Lakshmi ..Petitioner

And

The Commissioner of Police,
Vijayawada City Police
Commissionerate,
Krishna District and seven others ..Respondents

Dated : 30th October, 2006

ORAL ORDER : (per JC,J)

Writ Petition is filed with the prayer as follows :

> "For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction, particularly one in the nature of writ of Habeas Corpus directing the respondents 1 to 3 to trace the petitioner's minor daughter "Sadhvi Lasya", produce her in the Hon'ble Court and entrust her to the petitioner for safe custody and protection.
>
> (ii) and pass such

other or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioner is the wife of the 4th respondent. Their marriage took place on 21.2.2003. There are two issues out of the said marriage. The first being "Sadhvi Lasya" who is the alleged detenue in the present case. Apparently all is not well with the marriage. The petitioner made various allegations against the 4th respondent and his parents. Admittedly, she filed a complaint to the Vijayawada Patamata Police Station complaining dowry harassment.

Though there are contradictory versions about it, the fact remains that the petitioner and the 4th respondent are not living together at present. The petitioner is living with her parents as to how that separation was brought about is not a matter for us to decide in the present writ petition. It is also to be noticed that in this process, the 1st child of the petitioner `Sadhvi Lasya' is in the custody of the 4th respondent. Hence the present writ petition.

Respondents 5 and 6 are the parents, and respondent No. 8 is the sister of the 4thr espondent and respondent 7 is the husband of the 4th respondent. The respondents are served. Respondents 4 to 8 are represented by a Counsel. Respondents 1 to 3 are

represented by learned Advocate General.

The alleged detenue – a minor by name `Sadhvi Lasya' is produced before us today in the Court by the 4th respondent. We have examined both the petitioner and the 4th respondent in the chambers of one of us. The alleged detenue is aged about 3 years.

In the circumstances, we are of the opinion that the matter can be disposed of at this stage directing the 4th respondent to hand over the custody of the minor Sadhvi Lasya to the petitioner herein, (as the custody of the minor child below the age of five years is normally required to be with the mother, by virtue of a declaration under Section 6 of Hindu Minority and Guardianship Act, 1956) without prejudice to the rights of both the petitioner and the 4th respondent to work out their rights in accordance with law before the appropriate forum.

We therefore direct the custody to be handed over to the petitioner subject of course to the rights of the parties to be decided by an appropriate Court if they still wish to litigate their rights. Until such time the custody is required to be with the petitioner. Respondent No.4 shall have the rights to visit the child on every Sunday from 8 AM. If he so chooses he can take the child out, but shall return the child by 8 PM the same evening without fail.

Writ Petition is disposed of with the above direction.

(J.CHELAMESWAR, J)

(D.APPA RAO,J)

30th October, 2006.

Knk